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Date: 05 June 2009

Dear Interested and Affected Party

AMENDMENT OF ENVIRONMENTAL AUTHORISATION FOR THE PROPOSED PUMPED STORAGE SCHEME IN THE STEELPOORT AREA, LIMPOPO AND MPUMALANGA PROVINCES (REF 12/12/20/858)

In October 2007, you were notified of the Environmental Authorisation (dated 24 October 2007) granted by the Department of Environmental Affairs and Tourism (DEAT) for the above project.

In November 2008, you received further correspondence that the Applicant for the project (Eskom Holdings Limited) had prepared an application for an amendment to the Environmental Authorisation (EA). The amendments to the authorisation entailed the following:

- The inclusion of the farm Steynsdriif 145 JS as one of the authorised sites on which listed activities applied for by Eskom will be undertaken. The name of this farm was excluded from the EA. The property forms an integral part of the pumped storage scheme and was included in the Environmental Impact Assessment (EIA) and assessed accordingly. The studies undertaken for the activities associated with the power station development considered this farm in the impact assessment.
- Eskom also applied for the removal of **condition 1.20.3** from the EA which stated, “*no activities of the proposed development must be executed within 100m away from the river banks, streams and/or within 1:100 year flood line*”. This application was accepted by DEAT and subsequently removed from the EA. Other conditions that Eskom has applied to remove were conditions 1.20.5, 1.20.7 and 1.20.8, but DEAT did not approve their removal from the EA.

On 16 March 2009, Eskom Holdings Limited prepared another application motivating the removal of **conditions 1.20.5, 1.20.7 and 1.20.8** of the Environmental Authorisation issued on 24 October 2007. DEAT has decided to withdraw the following conditions, from the EA, to allow the applicant to proceed with the construction activities:

- **Condition 1.20.5** – “*the quarry on site must be below the dead volume of the dam to minimise the visual impacts*”.
- **Condition 1.20.7** – “*the dam wall is high enough to prevent overflow from the upper reservoir during the high rainfall season. This will prevent mixing of species in the upper and the lower reservoirs and water quality of the two reservoirs will be maintained*”.

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DEAT decided that **condition 1.20.8** of the EA remains in force as *“it does not preclude the applicant from proceeding with the authorised activities and is included to ensure that adverse environmental impacts are minimised”*.

A copy of the decision dated 01 June 2009 from DEAT, with regards to the amendments is attached for your review (see **Appendix B**).

Based on the submission and in terms of Regulation 43 of the Environmental Impact Assessment (EIA) Regulations (April 2006), the Department has decided to amend the authorisation. I&APs are advised to read this amended authorisation in conjunction with the original EA issued on 24 October 2008 that was sent to you on 26th October 2007. A copy of the original EA can be provided on request. The document can be requested from Ms Sibongile Hlomuka (Tel: 011 798 6429; Fax: 011 798 6010; Email: sibongileh@ssi.co.za).

In terms of Regulation 62(1) of the Environmental Impact Assessment Regulations (No. R.385 of July 2006), any person wishing to appeal against this Environmental Authorisation must lodge a notice of intention to the Minister of Environmental Affairs and Tourism, within 10 days of receipt of this communication. A copy of this letter is being sent out to all registered I&APs for the project, on the 06 June 2009, and 4 days is allowed for postage. The Notice of Intent period thus commences on 11 June 2009, and ends on 22 June 2009.

A notice of intent can be submitted utilising one of the following methods:

**By Post: Minister for Environmental Affairs and Tourism
Private Bag X447
PRETORIA, 0001**

By Facsimile: 012 310 3688

**By Hand: 2nd Floor Fedsure Forum Building, North Tower
Cnr Van der Walt and Pretorius Streets, Pretoria**

Appeals must comply with the provisions of Chapter 7 of Government Notice No R. 385 which states the following:

1. A Notice of Intent to Appeal must be lodged with the Minister within 10 (ten) days after a person has been notified in terms of the regulations.
2. In terms of Point 1, according to Rule 9 of the Magistrates' Courts Act (No 32 of 1944) a notification (when posted) is deemed effective four days after the postmarked date of such a notice. Therefore, notification of intent must be lodged by the **20 June 2009** and delivered by hand, post or fax to one of the above.
3. An appeal must be submitted to the relevant department within 30 days of the lodging of the notice of intention to appeal referred to in regulation 62 (1).
4. An appeal (as mentioned in Point 3) must be submitted on an official form published by or obtainable from the relevant department and set out all the facts, as well as the grounds of appeal, and must be accompanied by all relevant documents or certified copies of documents.
5. The prescribed Notice of Intent to Appeal form and Appeal form is obtainable from:

**Mr PKM Retief, Appeals Administrator, Tel: 012 310 3705, pretief@deat.gov.za or
Mr H Grové, Appeals Administrator, Tel: 012 310 3070, hgrové@deat.gov.za.**

The relevant extracts from Chapter 7 of the Regulations are included in **Appendix A** for your information.

The Minister shall, after considering the relevant facts and supporting documents received during the appeal process:

- Uphold the original decision; or
- Uphold the original decision with modifications; or
- Reverse the original decision.

I&APs intending to submit a Notice of Intent to Appeal should send a copy to Bohlweki-SSI Environmental (details provided below) as well as the copy of the Appeal accompanied by a notice indicating where and for what period the appeal submission will be available for inspection by the applicant.

Kind Regards

**SIBONGILE HLOMUKA
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FAX: 011798 6010
EMAIL: sibongileh@ssi.co.za**

Appendix A: Appeals

An extract from the Environmental Impact Assessment Regulations (No. R. 385 of July 2006):

Chapter 7 – Appeals

Application of this chapter:

60. (1) This chapter applies to decisions that –
- (a) are subject to an appeal to the Minister or MEC in terms of section 43 (1), (2) or (3) of the Act; and
 - (b) were taken by an organ of states acting under delegation in terms of section 42 or 42 (a) of the Act in the exercise of a power or duty vested by the Act or these Regulations in a competent authority.
- (2) No appeal in terms of this Chapter lies against decision taken by the Minister or MEC themselves in the capacity as the competent authority for the activity to which the decision relates.

Jurisdiction of Minister and MEC to decide appeals:

61. An appeal against a decision must be lodged with –
- (a) the Minister, if the Minister is the competent authority for the activity in relation to which the decision was taken;
 - (b) the MEC, if the MEC is the competent authority for the activity in relation to which the decision was taken or
 - (c) the delegated organ of state, where relevant.

Notices of intention to appeal:

62. (1) A person affected by a decision referred to in regulation 60(1) who wishes to appeal against the decision, must lodge a notice of intention to appeal with the Minister, MEC or delegated organ of state, as the case may be, within 10 days after that person has been notified in terms of these regulations of the decision.
- (3) If the appellant is a person other than an applicant, the appellant must serve on the applicant –
- (a) a copy of the notice referred to sub-regulation (1); and
 - (b) a notice indicating where and for what period the appeal submission will be available for inspection by the applicant

Submission of appeals:

63. (1) An appeal lodged with –
- (a) the Minister must be submitted to the Department of Environmental Affairs and Tourism;
 - (b) the MEC must be submitted to the provincial department responsible for environmental affairs in the relevant province or
 - (c) the delegated organ of state, where relevant, must be submitted to that delegated organ of state.
- (2) An appeal must be –
- (a) on an official form published by or obtainable from the relevant department; and
 - (b) accompanied by –
 - (i) a statement setting out the grounds of appeal;
 - (ii) supporting documentation which is referred to in the appeal and which is not in the possession of the Minister, MEC or delegated organ of state;
 - (iii) a statement by the appellant that regulation 62 (2) or (3) has been complied with together with copies of the notices referred to in that regulation; and
 - (iv) the prescribed appeal fee, if any.
- (3) When submitting an appeal, the appellant must take into account any guidelines applicable to appeals.

Time within which appeals must be lodged:

64. (1) An appeal must be submitted to the relevant department within 30 days of the lodging of the notice of intention to appeal to in regulation 62 (1).
- (2) The Minister, MEC or delegated organ of state, as the case may be, in writing, on good cause extend the period within which an appeal must be submitted.